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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,893	10/16/2003	Hidetoshi Ishida	YAO-3990US3	8582

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EXAMINER

JEFFERSON, QUOVAUNDA

ART UNIT

PAPER NUMBER

2823

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,893

Applicant(s)

ISHIDA ET AL.

Examiner

Quovaunda Jefferson

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

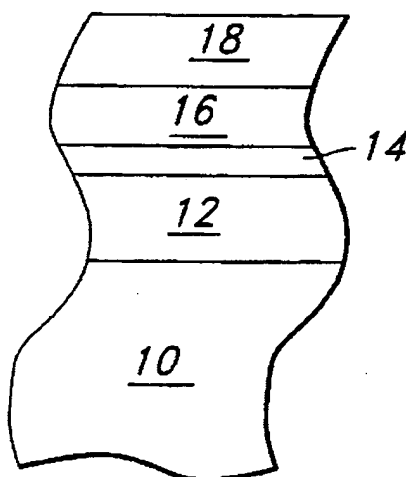


Fig. 1

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summerfelt et al, US Patent 5,326,721. See figure 1 above.

Pertaining to claims 8-11, Summerfelt teaches a semiconductor device having a titanium material layer 16 and a silicon oxide layer 12 wherein the titanium material layer includes at least one material selected from the group consisting of BaTiO_3 , SrTiO_3 , $\text{Ba}_x\text{Sr}_{(1-x)}\text{TiO}_3$, and similar Group IIA metal titanates.

However, Summerfelt fails teach the following:

A semiconductor device having a titanium material layer and a silicon oxide layer produced by a process including the step of etching at least one of the titanium material layer and the silicon oxide layer using an etchant, wherein the etchant includes a mixed liquid of HCl, NH_4F and H_2O ; and setting a molar ratio of $\text{NH}_4\text{F}/\text{HCl}$ in the mixed liquid, the molar ratio being set based on which of the at least one of the titanium material layer and the silicon oxide layer is to be etched;

The semiconductor device having a titanium material layer and a silicon oxide layer produced by a process, wherein the step of setting a molar ratio of $\text{NH}_4\text{F}/\text{HCl}$ includes setting the molar ratio of $\text{NH}_4\text{F}/\text{HCl}$ to less than 1 in the case where the titanium material layer is to be etched;

The semiconductor device produced by a process wherein the step of setting a molar ratio of $\text{NH}_4\text{F}/\text{HCl}$ includes setting the molar ratio of $\text{NH}_4\text{F}/\text{HCl}$ to less than 1 in the case where the silicon oxide layer is to be etched;

The semiconductor device produced by a process wherein the step of setting a molar ratio of $\text{NH}_4\text{F}/\text{HCl}$ includes setting the molar ratio of $\text{NH}_4\text{F}/\text{HCl}$ in the range from about 0.8 to about 1.2 in the case where both the titanium material layer and the silicon oxide layer are to be etched.

According to the MPEP, Section 2113, "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process".

In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted) (Claim was directed to a novolac color developer. The process of making the developer was allowed. The difference between the inventive process and the prior art was the addition of metal oxide and carboxylic acid as separate ingredients instead of adding the more expensive pre-reacted metal carboxylate. The product-by-process claim was rejected because the end product, in both the prior art and the allowed process, ends up containing metal carboxylate. The fact

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that the metal carboxylate is not directly added, but is instead produced in-situ does not change the end product.).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quovaunda Jefferson whose telephone number is 571-272-5051. The examiner can normally be reached on Monday through Friday, 8AM to 4:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on 571-272-1907. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

qvj



**W. DAVID COLEMAN
PRIMARY EXAMINER**